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RAMESH "SUNNY" BALWANI

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

HOLMES, et al.,

Defendants.

Case No. 18-CR-00258-EJD

**DEFENDANT RAMESH "SUNNY"
BALWANI'S ADMINISTRATIVE
MOTION TO SEAL EXHIBITS A, C, F-
M, O, T, W, AND X TO THE
DECLARATION OF JEFFREY B.
COOPERSMITH IN SUPPORT OF
MOTION TO DISMISS SECOND AND
THIRD SUPERSEDING INDICTMENTS**

Judge: Honorable Edward J. Davila

I. DOCUMENTS THAT DEFENDANT REQUESTS TO BE FILED UNDER SEAL

Pursuant to Criminal Local Rule 56-1, Defendant Ramesh “Sunny” Balwani respectfully submits this Administrative Motion to File Under Seal the following documents in support of its Motion to Dismiss the Second and Third Superseding Indictments Based on Pre-Indictment Delay (the “Motion to Dismiss”), each of which relates to or is designated as confidential or contains confidential information pursuant to the Protective Orders (Dkt. Nos. 28 and 90):

(1) Exhibits A, C, F–M, O, T, W, and X to the Declaration of Jeffrey B. Coopersmith in Support of Defendant Balwani’s Motion to Dismiss the Second and Third Superseding Indictments based on Pre-Indictment Delay.

II. DEFENDANT HAS COMPLIED WITH CRIMINAL LOCAL RULE 56-1

Criminal Local Rule 56-1, which governs the filing of documents under seal in criminal cases in this district, provides in relevant part:

[N]o document may be filed under seal (i.e., closed to inspection by the public) except pursuant to a court order that authorizes the sealing of the particular document, or portions thereof. A sealing order may issue only upon a request that establishes that a document is sealable because, for example, the safety of persons or a legitimate law enforcement objective would be compromised by the public disclosure of the contents of the document. The request must be narrowly tailored to seek sealing only of sealable material, and must conform with Crim. L.R. 56-1(c).

Crim. L.R. 56-1(b).

In conformance with Criminal Local Rule 56-1, this request to seal is narrowly tailored and seeks sealing only of sealable material.

III. COMPELLING REASONS EXIST TO SEAL THE REQUESTED DOCUMENTS

For most judicial records, including Mr. Balwani’s Motion to Dismiss at issue here, a “compelling reasons” standard applies. *See Kamakana v. City & Cty. of Honolulu*, 447 F.3d 1172, 1178 (9th Cir. 2006) (a party seeking to submit documents under seal bears the burden of demonstrating “compelling reasons” to protect the information from public disclosure).

Mr. Balwani requests that the aforementioned documents are filed under seal because each relates to and contains information which has been designated as “Confidential Material” under the July 2, 2018 and July 17, 2019, Protective Orders in this case (Dkt. Nos. 28 and 90). Several

1 of the exhibits contain personal and confidential medical information of third parties, justifying
2 sealing. *See San Ramon Reg'l Med. Ctr., Inc. v. Principal Life Ins. Co.*, 2011 89931, at *1 n.1
3 (sealing patient records to protect the patient's privacy). Other exhibits include memoranda of
4 depositions and interviews of uncharged third parties.

5 For these reasons and those in the supporting Declaration of Jeffrey B. Coopersmith filed
6 concurrently herewith, good cause exists to protect the requested documents from disclosure.

7 **IV. CONCLUSION**

8 For the foregoing reasons, Mr. Balwani respectfully requests that the Court grant his
9 motion to submit the requested documents under seal.

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11 Dated: August 28, 2020

Respectfully submitted,
ORRICK, HERRINGTON & SUTCLIFFE LLP

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JEFFREY B. COOPERSMITH

15 Attorney for Defendant
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